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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/501,191

02/15/2005

Vitalij Lissotschenko

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EXAMINER

MARTINEZ, JOSEPH P

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

BL

Office Action Summary	Application No.	Applicant(s)	
	10/501,191	LISSOTSCHENKO, VITALIJ	
	Examiner	Art Unit	
	Joseph P. Martinez	2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7-9-04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 6-9 are rejected under 35 U.S.C. 102(b) as being fully anticipated by Clark et al. (4730335).

Re claim 1, Clark et al. teaches for example in fig. 1 and 2, a holding device for the arrangement of at least one optical component in front of a laser light source of a laser unit, comprising a first holding part (10) to which at least one optical component (3) is attached, wherein the holding device further comprises a second holding part (9) which is attached to one part of the laser unit (2), the first holding part being attached to the second holding part (col. 3, ln. 5-9).

Re claim 2, Clark et al. further teaches for example in fig. 1 and 2, one of the holding parts (9), has a connecting section (right side or reduced outer diameter portion of 9, fig. 1) which is surrounded at least in sections by the receiving section (left side or increased inner diameter portion of 10, fig. 1) of the other of the holding parts (10, col. 7, ln. 8-11).

Re claim 3, Clark et al. further teaches for example in fig. 1 and 2, the connecting section an essentially cylindrical outside contour (col. 7, ln. 50-52) and wherein the receiving section has an essentially hollow cylindrical inside contour (col. 7, ln. 50-52), the connecting section being placed at least partially in the receiving section (10, col. 7, ln. 8-11).

Re claim 4, Clark et al. further teaches for example in fig. 1 and 2, there is an annular intermediate space between the outside contour and the inside contour (col. 7, ln. 8-11).

Re claim 6, Clark et al. further teaches for example in fig. 1 and 2, the intermediate space is filled with cement or solder (col. 7, ln. 34-36).

Re claim 7, Clark et al. further teaches for example in fig. 1 and 2, an intermediate layer (1) is inserted between the part the laser unit (2) to which the second holding part (9) is attached, and the corresponding contact surface of the second holding part.

Re claim 8, Clark et al. further teaches for example in fig. 1 and 2, the laser unit as the light source comprises a laser diode bar or a stack of laser diode bars (col. 1, ln. 53-55).

Re claim 9, Clark et al. further teaches for example in fig. 1 and 2, the part to which the second holding part (9) is attached is a heat sink (1, col. 4, ln. 45-46).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 5 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. (4730335).

Re claim 5, supra claim 4. Furthermore, Clark et al. further teaches for example in fig. 1 and 2, an intermediate space has a radial dimension (col. 7, ln. 8-11).

But, Clark et al. fails to explicitly teach the radial dimension is 10 microns to 200 microns.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a radial dimension of 10 microns to 200 microns, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Clark et al. in order to provide a secure fit between fittings and allow for space to apply adhesive.

Re claims 12-15, supra claim 8. Furthermore, Clark et al. further teaches for example in fig. 1 and 2, a first holding part (10) joined to the at least one optical component (3), the second holding part is (9) is joined to one part (1) of the laser unit (2) and the first holding part is connected to the second holding part (col. 7, ln. 8-11); first and second parts (10, 9), are joined by the hollow cylindrical inside contour being applied to the cylindrical outside contour and being cemented or soldered to it (col. 7, ln. 8-11); after application of the inside contour to the outside contour the at least one optical component positioned in front of the laser light source (col. 7, ln. 19-26).

But, Clark et al. fails to explicitly teach the process as disclosed and a cement or solder which is cured by UV irradiation.

However, the office interprets the steps of the process to be the method of manufacturing and therefore, the claimed method steps are product by process limitations. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of product. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Therefore, it is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of an obvious difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Still furthermore, Clark et al. teaches for example, using any conventional technique to bond the fittings, including welding or bonding with one or more adhesives or bonding agents (col. 7, ln. 32-36). Official Notice taken. The office interprets the teachings of Clark et al. to include UV curable adhesives, as is well known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Clark et al. with a UV curable adhesive in order to align the optical components and then cure the adhesive to maintain the proper alignment.

2. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. (4730335) in view of Richardson et al. (6478452).

Re claims 10 and 11, supra claim 8. Furthermore, Clark et al. further teaches for example in fig. 1 and 2, at least one optical component (7) is made as a collimation lens (col. 6, ln. 48-51) and a second optical component (7) which is made as a collimation lens (col. 6, ln. 48-51) is held on the laser unit via lateral support elements (13, wherein the office interprets the portion of 13 holding lens 7 to be lateral portions).

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But, Clark et al. fails to explicitly teach fast axis collimation and slow axis collimation.

However, within the same field of endeavor, Richardson et al. teaches for example in fig. 2A and 2B, a lens (26) for fast axis collimation and slow axis collimation (col. 3, ln. 14-15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Clark et al. with the collimating lens of Richardson et al. in order to control divergent light beams.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph P. Martinez whose telephone number is 571-272-2335. The examiner can normally be reached on M-F 7:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM
11-18-05


RICKY L. MACK
PRIMARY EXAMINER